

buttock, right shoulder sprain with bilateral rotator cuff tear, bilateral carpal tunnel syndrome, neurogenic bladder and bowel, bilateral dermatophytosis of the feet, organic impotence and herniated nucleus pulposus at C5-6 as a result of falling from a ladder during a training exercise. He stopped work on October 29, 1998. The Office paid him appropriate compensation benefits. On February 28, 2002 appellant returned to full-time modified-duty work as a special agent.

On May 21, 2007 appellant requested that the Office authorize the installation of accordion window shutters on his home. He explained that when he purchased the house, it had bulky iron shutters that he was unable to install or put up when a hurricane was forecast. When Hurricane Wilma struck his area in September 2005, his roof and windows were damaged because the iron shutters were too heavy for him to put up. Appellant contended that this situation posed a direct safety threat to his family. He stated that he would be able to pull accordion shutters together in the event of a hurricane. Appellant had to rely on other people who were sometimes unavailable to put up the iron shutters. He submitted two bids for the proposed modification. A May 8, 2007 prescription of Dr. Daniel Ettetdgui, a Board-certified physiatrist, stated that appellant was a spastic paraplegic. He ordered accordion shutters, noting that appellant was unable to install regular shutters.

By decision dated July 10, 2007, the Office denied authorization for the modification of appellant's home. It reviewed section 2.1800 of its procedure manual regarding the provision of modifications and found that appellant failed to establish that the requested shutters were needed for the management of his accepted October 29, 1998 employment injuries.¹ On July 16, 2007 he requested an oral hearing before an Office hearing representative.

At the December 18, 2007 hearing, appellant stated that on two occasions during the past two years, he experienced difficulty in putting up the heavy iron shutters. His wife was also unable to put them up. He stated that if he had the accordion shutters he could, with the help of his wife, close them in 15 minutes. Appellant's wife testified that appellant's condition prevented him from putting up the shutters. During the prior two hurricanes, appellant's former boss sent personnel to help them install the shutters on their windows. Appellant's wife stated that the accordion shutters were best for safety reasons. Troy Mihok, a witness, testified that, with his full mobility, it was a challenge for appellant to install them. He stated that anyone with limited strength could not install them and protect their family.

In a March 14, 2008 decision, an Office hearing representative affirmed the July 10, 2007 decision. She found that appellant failed to establish a causal relationship between the requested accordion shutters and his accepted employment injuries pursuant to 5 U.S.C. § 8103.

In an undated letter received by the Office on April 9, 2008, appellant requested reconsideration. In a March 26, 2008 letter, Dr. Ettetdgui stated that appellant had tried to install the metal shutters on his own during hurricanes but was unable to do so due to a bilateral rotator cuff tear and carpal tunnel syndrome, spastic paraplegia, cervical disc herniation, neck pain, cervicalgia and severe muscle spasms. Being wheelchair bound also prevented him from installing the shutters. Dr. Ettetdgui opined that appellant would greatly benefit from having the

¹ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Housing and Vehicle Modifications*, Chapter 2.1800.5b(6) (September 1994).

accordion shutters installed because he could manage them himself. In a March 28, 2008 letter, Dr. Ronald Laracuate, an internist, stated that appellant needed hurricane protection due to his multiple medical problems which included acquired paralysis of both lower limbs and acute myelocytic leukemia.

By decision dated June 24, 2008, the Office denied modification of the March 14, 2008 decision. It found the evidence submitted by appellant insufficient to establish that the requested housing modification was warranted for the effects of his accepted employment injuries. On July 10, 2008 he requested reconsideration.

In an August 4, 2008 decision, the Office denied modification of the June 24, 2008 decision. It found the evidence insufficient to establish that the requested accordion shutters were necessary due to appellant's accepted employment injuries.

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree of the period of any disability or aid in lessening the amount of any monthly compensation. These services, appliances and supplies shall be furnished by or on the order of the United States medical officers and hospital or at the employee's option, by or on the order of physicians and hospitals designated or approved by the Secretary.² The Office may apply a test of cost-effectiveness to appliances and supplies.³ The Office has broad discretionary authority in the administration of the Act and must exercise that discretion to achieve the objectives of section 8103.⁴ The only limitation on the Office's authority is that of reasonableness. Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁵

With regard to housing modifications for accessories, Chapter 2.1800.5b.(6) of the Office's procedure manual provides as follows:

“Modification may include what are normally considered to be comfort or convenience accessories, if needed for the effects of the compensable injury. In specific cases, heating, air condition and air filtration devices may be necessary based on the nature of the accepted condition. For example, such items might be required for an individual with a respiratory or cardiac ailment, and the physician

² 5 U.S.C. § 8103(a).

³ 20 C.F.R. § 10.310(b).

⁴ *Marjorie S. Geer*, 39 ECAB 1099 (1988).

⁵ *Daniel J. Perea*, 42 ECAB 214 (1990).

recommending the accessories would be responsible to explain such needs.”⁶
(Emphasis in the original.)

ANALYSIS

The Office accepted that appellant sustained paraplegia, closed fracture at T1-T6 with complete cord lesion, post-traumatic stress disorder, disruption of external operative wound, decubitus ulcer of the right buttock, right shoulder sprain with bilateral rotator cuff tear, bilateral carpal tunnel syndrome, neurogenic bladder and bowel, bilateral dermatophytosis of the feet, organic impotence and herniated nucleus pulposus at C5-6 in the performance of duty. The Board finds that the Office properly denied appellant’s subsequent request for authorization to purchase and install accordion window shutters.

On May 8, 2007 Dr. Ettetdgui stated that appellant was a spastic paraplegic and required accordion shutters since he was unable to install regular shutters. In a March 26, 2008 letter, Dr. Ettetdgui noted that appellant was unable to install his metal shutters during hurricanes due to his accepted employment injuries and being wheelchair bound. He opined that appellant would greatly benefit from having accordion shutters because he could manage them himself. Dr. Laracuate’s March 28, 2008 letter stated that appellant needed hurricane protection due to his multiple medical problems, which included acquired paralysis of both lower limbs and acute myelocytic leukemia. As noted, the only restriction on the Office’s authority to authorize housing modification is one of reasonableness. Both Dr. Ettetdgui and Dr. Laracuate recommended the installation of accordion shutters.⁷ However, they did not adequately explain how the shutters would cure, give relief or reduce the disability related to appellant’s accepted medical conditions. Rather, they stated that he needed the shutters for protection from hurricanes and that they would be easier to manage during a hurricane. The medical evidence from Dr. Ettetdgui and Dr. Laracuate does not adequately explain how the shutters were medically necessary due to the accepted medical conditions, *i.e.*, how the shutters were needed for the management of the accepted employment conditions as provided for in Chapter 2.1800.5b.(6) of the Office’s procedures.⁸ The Board has held that an opinion without supporting rationale is of diminished probative value.⁹ Further, the Board notes that appellant’s claim has not been accepted for acute myelocytic leukemia and appellant has not established an employment relationship. For these reasons, the Board finds that the Office did not abuse its broad discretion under section 8103 of the Act when it denied authorization for the purchase and installation of accordion shutters.

⁶ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Housing and Vehicle Modifications*, Chapter 2.1800.5b(6) (September 1994).

⁷ *William C. Thomas*, 45 ECAB 591 (1994).

⁸ *Id.*

⁹ *Willa M. Frazier*, 55 ECAB 379 (2004).

CONCLUSION

The Board finds that the Office properly denied appellant authorization for the purchase and installation of window shutters.

ORDER

IT IS HEREBY ORDERED THAT the August 4, June 24 and March 14, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 17, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board